

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## SENATE ENROLLED ACT No. 462

AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 6-1.1-10.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

### **Chapter 10.1. High Impact Business Designation**

**Sec. 1. (a) This chapter applies only to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000).**

**(b) A county described in subsection (a) is presented with unique challenges due to:**

- (1) the presence of multiple business facilities of the high impact business within the corporate boundaries of the largest city in the county and in unincorporated areas of the county;**
- (2) the proportion of property taxes paid by the high impact business to all property taxes paid in the county;**
- (3) continued economic pressures on the high impact business to reduce its property taxes by relocating to another location outside Indiana;**
- (4) the desire of local elected officials to encourage the high impact business to retain manufacturing operations within the county; and**
- (5) the limited availability of other incentives to encourage the high impact business to retain manufacturing operations**



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within the county.

**Sec. 2.** As used in this chapter, "designating body" means the commission established under section 6 of this chapter.

**Sec. 3.** As used in this chapter, "designation application" means an application that is filed with a designating body to assist the body in making a determination about whether a particular business should be designated as a high impact business.

**Sec. 4.** As used in this chapter, "high impact business" means a manufacturing business that has business locations:

- (1) within the corporate boundaries of the largest city in the county; and
- (2) in unincorporated areas in the county;

and that is designated a high impact business under section 7 of this chapter.

**Sec. 5.** As used in this chapter "inventory" has the meaning set forth in IC 6-1.1-3-11.

**Sec. 6. (a)** There is established a high impact business commission in the county for the purpose of considering and acting upon applications for designation as a high impact business.

**(b)** The commission consists of the membership of the fiscal bodies of the county and the largest city in the county.

**(c)** Members of the commission shall serve without compensation.

**(d)** The jurisdiction of the commission consists of the unincorporated areas of the county and the largest city in the county.

**Sec. 7. (a)** A designating body may find that a business within its jurisdiction is a high impact business.

**(b)** The property tax credit provided by section 10 of this chapter is available only to a business that the designating body finds to be a high impact business.

**(c)** A designating body may impose a fee for filing a designation application for a person requesting the designation of a particular business as a high impact business. The fee may be sufficient to defray actual processing and administrative costs.

**(d)** If the proposed high impact business is also located in an allocation area (as defined in IC 36-7-14-39 or IC 36-7-15.1-26), an application for the property tax credit provided by this chapter may not be approved unless the commission that designated the allocation area adopts a resolution approving the application.

**(e)** The designating body may designate only one (1) business as a high impact business under this chapter.



**Sec. 8. (a)** If a designating body finds that a business in its jurisdiction is a high impact business, it shall prepare a map and plat that identifies the business locations of the high impact business.

**(b)** After the preparation of the map described in subsection (a), the designating body shall pass a resolution declaring that a particular business is a high impact business. The resolution must contain the addresses of the business locations of the high impact business and must be filed with the county assessor.

**(c)** After passage of a resolution under subsection (b), the designating body shall do the following:

**(1)** Publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1.

**(2)** File the following information with each taxing unit that has authority to levy property taxes in the geographic area where the high impact business is located:

**(A)** A copy of the notice required by subdivision (1).

**(B)** A statement containing substantially the same information as a statement of benefits filed with the designating body under section 9 of this chapter before the hearing required by this section.

**(3)** Hold a public hearing on the issue of the designation of a particular business as a high impact business.

**(d)** The notice required under subsection (c) must state that a description of the designated high impact business is available and can be inspected in the county assessor's office. The notice must also set forth a date when the designating body will receive and hear all remonstrances and objections from interested persons at the public hearing required by subsection (c)(3). The designating body shall file the information required by subsection (c)(2) with the officers of the taxing unit who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date of the public hearing.

**(e)** After considering the evidence, the designating body shall take final action determining whether the qualifications for the designation of a high impact business have been met and confirming, modifying and confirming, or rescinding the resolution. This determination is final.

**Sec. 9. (a)** An applicant must provide a completed statement of benefits form to the designating body before the hearing required by section 8(c)(3) of this chapter. The department of local government finance shall prescribe a form for the statement of

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benefits. The statement of benefits must include the following information:

- (1) A description of the proposed investment.
- (2) An estimate of the number of individuals who will be employed or whose employment will be retained by the applicant as a result of the investment and an estimate of the annual salaries of these individuals.
- (3) An estimate of the value of the investment.
- (4) A certification by the applicant to the commission that, subject to obtaining designation as a high impact business, the applicant intends to:
  - (A) make a minimum investment of fifty million dollars (\$50,000,000) in new product development and manufacturing capacity for products to be manufactured in the applicant's facilities located within the commission's jurisdiction; and
  - (B) retain an aggregate employment level of at least one thousand four hundred (1,400) full-time jobs in the applicant's facilities located within the commission's jurisdiction for at least twenty (20) years after the date of the designation of the applicant's business as a high impact business.

With the approval of the designating body, the statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(b) The designating body must review the statement of benefits required under subsection (a). The designating body shall determine whether a business should be designated as a high impact business and whether a property tax credit should be allowed under this chapter after making the following findings at a public hearing:

- (1) Whether the estimate of the value of the investment is reasonable for projects of that nature.
- (2) Whether:
  - (A) the employment of the estimated number of individuals; or
  - (B) the retention of the estimated number of employees; can reasonably be expected to result from the proposed investment.
- (3) Whether the annual salaries estimated for the individuals and employees referred to in subdivision (2) can reasonably



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be expected to result from the proposed investment.

(4) Whether any other benefits about which information was requested can reasonably be expected to result from the proposed investment.

(5) Whether the totality of benefits is sufficient to justify the property tax credit.

A designating body may not designate a high impact business or approve a property tax credit unless the findings required by this subsection are made in the affirmative.

Sec. 10. (a) A high impact business is entitled to a credit against the business's property tax liability under IC 6-1.1-2 for a particular year following the designating body's adoption of a resolution taking final action under section 8 of this chapter. The amount of the credit equals the amount of the high impact business's property tax liability under IC 6-1.1-2 on inventory located in the county for the year in which the credit is sought.

(b) A certified copy of the resolution shall be sent to the county auditor, who shall grant the credit as provided in section 11 of this chapter.

(c) A high impact business may not claim a credit under section 11 of this chapter for more than ten (10) years.

Sec. 11. (a) A high impact business that desires to obtain the property tax credit provided by section 10 of this chapter must file a certified credit application, on forms prescribed by the department of local government finance, with the auditor of the county in which the inventory is located. The credit application must be filed on or before May 15 each year. If the high impact business obtains a filing extension under IC 6-1.1-3-7(b) for any year, the application for the year must be filed by the extended due date for that year.

(b) The property tax credit application required by this section must contain the following information:

(1) The name of the high impact business owning the inventory.

(2) A description of the inventory for which a property tax credit is claimed in sufficient detail to afford identification.

(3) The assessed value of the inventory subject to the property tax credit.

(4) Any other information considered necessary by the department of local government finance.

(c) On verification of the correctness of a property tax credit application by the assessors of the townships in which the

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inventory is located, the county auditor shall grant the property tax credit.

(d) The property tax credit and the period of the credit provided for inventory under section 10 of this chapter are not affected by a change in the ownership of the high impact business if the new owner of the high impact business owning the inventory:

(1) continues the business operation of the high impact business within the commission's jurisdiction and maintains employment levels within the commission's jurisdiction consistent with the certification and pledge required under section 9(a) of this chapter; and

(2) files an application in the manner provided by subsections (a) and (b).

Sec. 12. (a) At any time within twenty (20) years after the date that a business has been designated as a high impact business under section 8 of this chapter, the designating body may determine whether the high impact business owner has substantially complied with the statement of benefits approved under section 9 of this chapter. If the designating body determines that the high impact business owner has not substantially complied with the statement of benefits and that the failure to substantially comply was not caused by factors beyond the control of the high impact business owner (such as declines in demand for the property owner's products or services), the designating body shall mail a written notice to the high impact business owner. The written notice must include the following provisions:

(1) An explanation of the reasons for the designating body's determination.

(2) The date, time, and place of a hearing to be conducted by the designating body for the purpose of further considering the high impact business owner's compliance with the statement of benefits. The date of the hearing must be not less than fifteen (15) and not more than thirty (30) days after the date on which the notice is mailed.

(b) On the date specified in the notice described in subsection (a)(2), the designating body shall conduct a hearing to further consider the high impact business owner's compliance with the statement of benefits. Based on the information presented at the hearing by the high impact business owner and other interested parties, the designating body shall again determine whether the high impact business owner has made reasonable efforts to substantially comply with the statement of benefits and whether

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any failure to substantially comply was caused by factors beyond the control of the high impact business owner. If the designating body determines that the high impact business owner has not made reasonable efforts to comply with the statement of benefits, the designating body shall adopt a resolution either:

- (1) terminating the high impact business owner's property tax credit under section 10 of this chapter; or
- (2) imposing a penalty under section 13 of this chapter if the failure to comply with the statement of benefits occurs more than ten (10) years after the first year in which the high impact business claimed a property tax credit under section 11 of this chapter.

(c) If the designating body adopts a resolution terminating the high impact business owner's property tax credit under this chapter:

- (1) the credit does not apply to the next installment of property taxes owed by the high impact business owner or to any subsequent installment of property taxes;
- (2) the high impact business owner shall pay the amount determined under section 14(e) of this chapter to the county treasurer; and
- (3) the county treasurer shall distribute the money paid under this section in accordance with section 14(f) of this chapter.

(d) If the designating body adopts a resolution terminating a property tax credit under subsection (b), the designating body shall immediately mail a certified copy of the resolution to:

- (1) the high impact business owner; and
- (2) the county auditor.

The county auditor shall remove the property tax credit from the tax duplicate and shall notify the county treasurer of the termination of the credit. If the designating body's resolution is adopted after the county treasurer has mailed the statement required by IC 6-1.1-22-8, the county treasurer shall immediately mail the high impact business owner a revised statement that reflects the termination of the property tax credit.

(e) A high impact business owner whose property tax credit under section 10 of this chapter is terminated by the designating body under this section may appeal the designating body's decision by filing a complaint in the office of the clerk of the circuit or superior court, together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the high impact business owner. An appeal under this subsection shall be promptly

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heard by the court without a jury and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal and may confirm the action of the designating body or sustain the appeal. The judgment of the court is final unless an appeal is taken as in other civil actions.

(f) If an appeal under subsection (e) is pending, the taxes resulting from the termination of the property tax credit under this chapter and the payment required by this section are not due until after the appeal is finally adjudicated and the termination of the credit is finally determined.

**Sec. 13. (a)** If the fiscal body adopts a resolution under section 12 of this chapter imposing a penalty, the amount of the penalty is the amount determined under the following formula:

**STEP ONE:** Determine the total amount of property tax credits received by the high impact business owner under this chapter.

**STEP TWO:** Divide the STEP ONE result by ten (10).

**STEP THREE:** Determine the number of years that have elapsed since January 1 of the first year in which the high impact business owner received a property tax credit under section 10 of this chapter.

**STEP FOUR:** Subtract the STEP THREE result from twenty (20).

**STEP FIVE:** Multiply the STEP FOUR result by the STEP TWO result.

**(b)** The high impact business owner shall pay the amount determined under subsection (a) to the county treasurer. The county treasurer shall distribute money paid under this section on a pro rata basis to the general fund of each taxing unit that contains the inventory that was subject to the property tax credit. The amount to be distributed to the general fund of each taxing unit shall be determined by the county auditor according to the following formula:

**STEP ONE:** For each year that the property tax credit was in effect, determine the amount of property taxes that were paid by the high impact business owner to the taxing unit.

**STEP TWO:** Determine the sum of the STEP ONE amounts.

**STEP THREE:** Divide the STEP TWO sum by the sum determined under STEP TWO of section 14(e) of this chapter.

**STEP FOUR:** Multiply the amount paid by the high impact business owner under section 14(e) of this chapter by the STEP THREE quotient.





**Sec. 14. (a)** A high impact business owner that has received a property tax credit under section 10 of this chapter is subject to this section if the designating body adopts a resolution incorporating this section for the high impact business owner.

**(b) If:**

**(1)** the high impact business owner ceases operations before January 1, 2024, at a facility for which the property tax credit was granted under this chapter; and

**(2)** the designating body finds that the high impact business owner obtained a property tax credit under this chapter by intentionally providing false information concerning the high impact business owner's plans to continue operations at the facilities located within the commission's jurisdiction;

the high impact business owner shall pay the amount determined under subsection (e) to the county treasurer.

**(c)** A high impact business owner may appeal the designating body's decision under subsection (b) by filing a complaint in the office of the clerk of the circuit or superior court, together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the high impact business owner. An appeal under this subsection shall be promptly heard by the court without a jury and determined not more than thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal and may confirm the action of the designating body or sustain the appeal. The judgment of the court is a final determination that may be appealed in the same manner as other civil actions.

**(d)** If an appeal under subsection (c) is pending, the payment required by this section is not due until after the appeal is finally adjudicated and the high impact business owner's liability for the payment is finally determined.

**(e)** The county auditor shall determine the amount to be paid by the high impact business owner according to the following formula:

**STEP ONE:** For each year that the property tax credit provided under section 10 of this chapter was in effect, determine the amount of property taxes that were paid by the high impact business owner.

**STEP TWO:** Determine the sum of the STEP ONE amounts.

**STEP THREE:** Multiply the sum determined under STEP TWO by one and one-tenth (1.1).

**(f)** The county treasurer shall distribute money paid under this section on a pro rata basis to the general fund of each taxing unit

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that contained the inventory that was subject to the property tax credit provided under section 10 of this chapter. The amount to be distributed to the general fund of each taxing unit shall be determined by the county auditor according to the following formula:

**STEP ONE:** For each year that the property tax credit provided under section 10 of this chapter was in effect, determine the amount of property taxes that were paid by the high impact business owner to the taxing unit.

**STEP TWO:** Determine the sum of the STEP ONE amounts.

**STEP THREE:** Divide the STEP TWO sum by the sum determined under STEP TWO of subsection (e).

**STEP FOUR:** Multiply the amount paid by the high impact business owner under subsection (e) by the STEP THREE quotient.

**SECTION 2.** [EFFECTIVE JULY 1, 2002] IC 6-1.1-10.1-10, as added by this act, applies to property taxes first due and payable after December 31, 2003.

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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

Approved: \_\_\_\_\_

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Governor of the State of Indiana

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